

IN THE UNITED STATES DISTRICT
FOR THE SOUTHERN DISTRICT OF NEW YORK
WHITE PLAINS DIVISION

FURNACE BROOK LLC, a New York Corporation,

Plaintiff,

v.

OVERSTOCK.COM, INC., a Delaware Corporation,

Defendant.

05 CV 7329

ECF CASE

Case No.:

(Jury Trial Demanded)

COMPLAINT

Plaintiff, Furnace Brook, LLC ("Furnace Brook"), for its complaint of patent infringement against defendant, Overstock.com, Inc. ("Overstock"), hereby alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Furnace Brook is a corporation organized under the laws of New York, with a principal place of business at 204 Furnace Dock Road, Cortland Manor, New York 10567.
2. Overstock is a corporation organized under the laws of Delaware, with a principal place of business at 6322 S. 3000 E, Suite 100, Salt Lake City, Utah 84121.
3. Upon information and belief, the defendant has been, and is, engaged in substantial and continuous business activities in the judicial district.
4. This Complaint arises under the patent laws of the United States (35 U.S.C. § 1, *et seq.*). Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331 and 1338(a).

5. Venue in this Court is proper under 28 U.S.C. § 1400(b).

COUNT I – PATENT INFRINGEMENT

6. Furnace Brook repeats and realleges paragraphs 1-5, *supra*, as if fully set forth in full herein.

7. Furnace Brook is the owner by assignment of U.S. Patent No. 5,721,832, entitled *Method and Apparatus for an Interactive Computerized Catalog System* (“the ‘832 patent”) (Exhibit A).

8. The defendant Overstock, through the operation of the overstock.com web site, has infringed the ‘832 patent.

9. The defendant Overstock has induced others to infringe the ‘832 patent through their making available the overstock.com web site to end users.

10. The defendant has contributed to the infringement by others of the ‘832 patent through their making available the overstock.com web site to end users.

11. Upon information and belief, the afore-referenced infringement has been willful.

12. The defendant’s continued infringing acts will cause continued damage to Furnace Brook’s business and property rights, in an amount to be proven in trial.

13. The defendant’s continued acts of infringement will further cause immediate and irreparable harm to Furnace Brook for which there is no adequate remedy at law, and for which Furnace Brook is entitled to injunctive relief under 35 U.S.C. § 283.

WHEREFORE, Furnace Brook respectfully requests an entry of judgment from this Court:

A) Declaring that the defendant has infringed, and continues to infringe, the ‘832 Patent under 35 U.S.C. § § 271(a) & (b);

- B) Declaring that the defendant has willfully infringed, and continue to willfully infringe, the '832 Patent;
- C) Permanently enjoining the defendant from further infringement of the '832 Patent;
- D) Awarding Furnace Brook adequate monetary damages consistent with 35 U.S.C. § 284 to compensate Furnace Brook for the defendant's past and continuing infringement, together with costs and prejudgment interest, but in no event less than a reasonable royalty;
- E) Awarding Furnace Brook enhanced monetary damages pursuant to 35 U.S.C. § 284 as a result of the defendant's willful infringement;
- F) Declaring this to be an "exceptional" case with in the meaning of 35 U.S.C. § 285, and awarding Furnace Brook reasonable attorneys' fees, expenses and costs; and
- G) Awarding Furnace Brook any additional relief that the Court determines to be appropriate.

Respectfully submitted,



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Date: New York, New York
August 18, 2005

DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38(b), plaintiff, Furnace Brook, LLC, demands a jury trial of all issues properly triable to a jury in this case.



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